

House State & Local Government Committee Amendment No. 1, as amended

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 3278

House Bill No. 3295*

FILED

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by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 6, is amended by adding Sections 2 through 9 as a new chapter 58.

SECTION 2. With this act, the general assembly intends to establish a comprehensive growth policy for this state that:

- (1) Eliminates annexation or incorporation out of fear;
- (2) Establishes incentives to annex or incorporate where appropriate;
- (3) More closely matches the timing of development and the provision of public services; and
- (4) Stabilizes each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters.

SECTION 3.

(a) The provisions of this chapter shall not apply to any county having a metropolitan form of government.

(b) Notwithstanding the provisions of this act to the contrary, **IF** a metropolitan government charter commission is duly created within any county after the effective date of this act but prior to July 1, 2001, **AND IF** the metropolitan charter proposed by such commission is either rejected or otherwise not ratified by the voters prior to July 1, 2001, **THEN** the sanctions established by Section 10 shall not be imposed in such county prior to July 1, 2002.

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SECTION 4. (a)

(1) A municipality may make binding agreements with other municipalities and with counties to refrain from exercising any power or privilege granted to the municipality by this chapter, to any degree contained in the agreement, including but not limited to the authority to annex.

(2) A county may make binding agreements with municipalities to refrain from exercising any power or privilege granted to the county by this chapter, to any degree contained in the agreement, including but not limited to the authority to receive annexation date revenue.

(3) Any agreement made pursuant to this subsection need not have a set term, but after the agreement has been in effect for five (5) years, any party upon giving ninety (90) days written notice to the other parties is entitled to a renegotiation or termination of the agreement.

(b) Notwithstanding any provisions of this chapter or any other provision of law to the contrary, any annexation reserve agreement or any agreement of any kind either between municipalities or between municipalities and counties setting out areas reserved for future municipal annexation and in effect on the effective date of this act are ratified and remain binding and in full force and effect. Any such agreement may be amended from time to time by mutual agreement of the parties. Any such agreement or amendment may not be construed to abrogate the application of any provision of this chapter to the area annexed pursuant to the agreement or amendment.

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(c)(1) No provision of this chapter shall operate to invalidate an annexation ordinance done pursuant to a written contract between a municipality and a developer in existence on the effective date of this act.

(2) This subsection shall only apply to municipal and county governments in any county with a charter form of government.

SECTION 5. (a) Except as provided in Section 6 with respect to corridor annexation, after the effective date of this act a municipality may annex territory by ordinance upon its own initiative as provided by §6-51-102, if the county concurs in the annexation by adopting a resolution within sixty (60) days of the final passage of the annexation ordinance.

(b)(1) If a county fails to concur in the annexation as provided in (a) above, a county shall be deemed an aggrieved owner of property giving the county standing to contest an annexation ordinance if the county is petitioned by a majority of the property owners by parcel within the territory which is the subject of the annexation to represent their interests. In determining a majority of property owners, a parcel of property with more than one owner shall be counted only once and only if owners comprising a majority of the ownership interests in the parcel petition together as the owner of the particular parcel.

(2) A petition by property owners under this section shall be presented to the county clerk, who shall forward a copy of such petition to the county executive, county assessor of property and the chairperson of the county legislative body. After examining the evidence of title based upon the county records, within fifteen (15) days of receiving

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the copy of the petition, the assessor of property shall report to the county executive and the chairperson of the county legislative body whether or not in his or her opinion a majority of the property owners by parcel have petitioned the county according to this section.

(3) Notwithstanding any other provision of this chapter, a petition by property owners to the county under this section to contest an annexation shall be brought within thirty (30) days of the final passage of the annexation ordinance, and if the county legislative body adopts a resolution to contest the annexation, the county shall file suit to contest the annexation pursuant to this section within sixty (60) days of the final passage of the annexation ordinance.

(c) If a quo warranto action is filed to challenge an annexation proposed in accordance with this section, the party filing the action has the burden of proving that:

(1) An annexation ordinance is unreasonable for the overall well-being of the communities involved; and

(2) The health, safety, and welfare of the citizens and property owners of the municipality and territory will not be materially retarded in the absence of such annexation.

(d) In any such action, the action shall be tried by the circuit court judge or chancellor without a jury.

(e) After the effective date of this act a municipality may not extend its corporate limits by annexation of a public right-of-way, or any easement owned by a governmental entity or

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quasi-governmental entity, railroad, utility company, or federal entity such as the U.S. Army Corps of Engineers or the Tennessee Valley Authority, or natural or man-made waterway, or any other corridor except in the following circumstances:

(1) the annexed area also includes each parcel of property contiguous to the right of way, easement, waterway or corridor adjacent on at least one side,

(2) the municipality receives the approval of the county legislative body of the county wherein the territory proposed to be annexed lies; or

(3) the provisions of Section 6, subsection (b) apply.

(f) Nothing in this section shall be construed to prevent a municipality from proposing extension of its corporate limits by the procedures in Sections 6-51-104 and 105. Provided, further, if the territory proposed to be annexed does not have any residents, such annexation may be accomplished only with the concurrence of the county as provided in (a) above.

SECTION 6. (a)(1) A municipality may not annex by ordinance upon its own initiative territory in any county other than the county in which the city hall of the annexing municipality is located, with these exceptions:

(A) A municipality located in two (2) or more counties as of November 25, 1997, may enact such annexations in all counties, unless the percentage of the municipal population residing in the county or counties other than those in which the city hall is located is less than ten percent (10%) of the total population of the municipality.

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(B) A municipality may enact such an annexation with the approval by resolution of the county legislative body of the county in which the territory proposed to be annexed is located.

(C) A municipality may annex by ordinance if the territory to be annexed:

(1) is in another county;

(2) such property is being used or will be used as an industrial park; and

(3) the territory is either owned by the municipality or the municipality has an option to purchase such territory.

(b)(1) Notwithstanding the provisions of subsection (a), a municipality may annex by ordinance a public right of way, natural or man-made waterway, any easement owned by a governmental entity or quasi-governmental entity, railroad, utility company, or federal entity, or any other corridor if:

(A) The owner of the territory to be annexed by way of such corridor needs specific municipal services; and

(B) Such owner has petitioned the municipality for annexation.

(2) Provided, however, IF the corporate boundaries of such municipality were extended by an annexation along a public right of way, natural or man-made waterway, any easement owned by a governmental entity or quasi-governmental entity, railroad, utility company, or federal entity, or any other corridor prior to the effective date of this act, THEN in no event shall the provisions of subdivision (1) be applied to authorize the

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further extension of the municipal boundaries of the annexing municipality along such public right-of-way, natural or man-made waterway, such easement or corridor:

(A) Beyond the county boundary; or

(B) To further extend the municipal boundary, which, on the effective date of this act, is more than eight (8) miles from the point of origin of the municipal boundary from which such boundary was extended.

(3) Provided, further, the provisions of subdivision (1) shall not in any event be applied to authorize the extension of the municipal boundaries of the annexing municipality beyond any agreed municipal reserve agreement, if applicable.

SECTION 7.

(a)(1) A municipality incorporated after the effective date of this act, shall impose a property tax that raises an amount of not less than the amount of the annual revenues derived by the municipality from state shared taxes. The municipality shall levy and collect the property tax before the municipality may receive state shared taxes.

(b)(1) Within six (6) months of an incorporation election, the annexing municipality shall adopt by ordinance a plan of services for the services the municipality proposes to deliver. The municipality shall prepare and publish its plan of services in a newspaper of general circulation distributed in the municipality. The rights and remedies of §6-51-108 apply to the plan of services adopted by the municipality.

SECTION 8.

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(a) It is the intent of the general assembly that local governments engage in long-term planning, and that such planning be accomplished through regular communication and cooperation among local governments, the agencies attached to them, and the agencies that serve them.

(b) There shall be established in each county a joint economic and community development board which shall be established by interlocal agreement pursuant to Tennessee Code Annotated, Section 5-1-113. The purpose of the board is to foster communication relative to economic and community development between and among governmental entities, industry, and private citizens.

(c) Each joint economic and community development board shall be composed of representatives of county and city governments, private citizens, and present industry and businesses. The final makeup of the board shall be determined by interlocal agreement but shall, at a minimum, include the county executive and the mayor or city manager, if appropriate, of each city lying within the county and one (1) person who owns land qualifying for classification and valuation under Tennessee Code Annotated, Title 67, Chapter 5, Part 10. Provided, however, in cases where there are multiple cities, smaller cities may have representation on a rotating basis as determined by the interlocal agreement.

(d) There shall be an executive committee of the board which shall be composed of members of the joint economic and community development board selected by the entire board. The makeup of the executive committee shall be determined by the entire

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joint economic and community development board but shall, at a minimum, include the county executive and the mayors or city manager of the larger municipalities in the county.

(e) The terms of office shall be determined by the interlocal agreement but shall be staggered except for those positions held by elected officials whose terms shall coincide with the terms of office for their elected positions. All terms of office shall be for a maximum of four (4) years.

(f) The board shall meet, at a minimum, four (4) times annually and the executive committee of the board shall meet at least eight (8) times annually. Minutes of all meetings of the board and the executive committee shall be documented by minutes kept and certification of attendance. Meetings of the joint economic and community development board and its executive committee are subject to the open meetings law.

(g)(1) Except as provided in subdivision (4), the activities of the board shall be jointly funded by the participating governments. The formula for determining the amount of funds due from each participating government shall be determined by adding the population of the entire county as established by the last federal decennial census to the populations of each city as determined by the last federal decennial census, or special census as provided for in Section 6-51-114, and then determining the percentage that the population of each governmental entity bears to the total amount.

(2) If a special census has been certified pursuant to Tennessee Code

Annotated Section 6-51-114 during the five (5) year period after certification of the last

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federal decennial census, the formula shall be adjusted by the board to reflect the result of the special census. Provided, however, the board shall only make such an adjustment during the fifth year following the certification of a federal decennial census.

(3) The board may accept and expend donations, grants and payments from persons and entities other than the participating governments.

(4) If on the effective date of this act, a county and city government have a joint economic and community development council which has an established funding mechanism to carry out a unified economic and community development program for the entire county, such funding mechanism shall be utilized in lieu of the formula established in this subsection.

(h) An annual budget to fund the activities of the board shall be recommended by the executive committee to the board which shall adopt a budget before the first day of April of each year. The funding formula established by this act shall then be applied to the total amount budgeted by the board as the participating governments' contributions for the ensuing fiscal year. The budget and a statement of the amount due from each participating government shall be immediately filed with the appropriate officer of each participating government. In the event a participating government does not fully fund its contribution, the board may establish and impose such sanctions or conditions as it deems proper.

(i) When applying for any state grant a city or a county shall certify its compliance with the requirements of this section.

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SECTION 9. This part shall not apply to any annexation ordinance that was not final on November 25, 1997.

SECTION 10. (a) Tennessee Code Annotated, Section 7-2-101, is amended by adding the following as subdivision (4):

(4) The commission may be created upon receipt of a petition, signed by qualified voters of the county, equal to at least ten percent (10%) of the number of votes cast in the county for governor in the last gubernatorial election.

(A) Such petition shall be delivered to the county election commission for certification. After the petition is certified, the county election commission shall deliver the petition to the governing body of the county and the governing body of the principal city in the county. Such petition shall become the consolidation resolution of the county and the principal city in the county. The resolution shall provide that a metropolitan government charter commission is established to propose to the people the consolidation of all, or substantially all, of the government and corporate functions of the county and its principal city and the creation of a metropolitan government for the administration of the consolidated functions.

(B) Such resolution shall either:

(i) Authorize the county executive or county mayor to appoint ten (10) commissioners, subject to confirmation by the county governing

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body, and authorize the mayor of the principal city to appoint five (5) commissioners, subject to confirmation by the city governing body; or

(ii) Provide that an election shall be held to select members of the metropolitan government charter commission; provided, however, if the governing body of the county and the governing body of the principal city cannot agree on the method of selecting members of the metropolitan government charter commission within sixty (60) days of certification, then an election shall be held to select members of the metropolitan government charter commission as provided in Section 7-2-102.

(C) It is the legislative intent that the persons appointed to the charter commission shall be broadly representative of all areas of the county and principal city and that every effort shall be made to include representatives from various political, social, and economic groups within the county and principal municipality.

(D) When such resolution shall provide for the appointment of commissioners of the county and city, the metropolitan government charter commission shall be created and duly constituted after appointments have been made and confirmed.

(E) When such resolution shall provide for an election to select members of the metropolitan government charter commission, copies thereof shall be

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certified by the clerk of the governing bodies to the county election commission,
and thereupon an election shall be held as provided in Section 7-2-102.

(F) When the consolidation resolution provides for the appointment of
members of the metropolitan government charter commission, such
appointments shall be made within thirty (30) days after the resolution is
submitted to the governing bodies of the county and the principal city.

(b) Tennessee Code Annotated, Section 7-2-101(1)(B)(i), is amended by deleting
the words “presiding officer of the county governing body” and substituting instead the
00words “county executive or county mayor”.

(c) Tennessee Code Annotated, Section 7-2-101(2)(B), is amended by deleting
the words “presiding officer of the county governing body” and substituting instead the
words “county executive or county mayor”.

(d) Tennessee Code Annotated, Section 7-2-101(2)(B)(i), is amended by deleting
wherever they may appear, the words “presiding officer of the county governing body”
and substituting instead the words “county executive or county mayor”.

SECTION 11. Tennessee Code Annotated, Section 6-51-102, is amended by deleting
subsection (b) and substituting instead the following:

(b)(1) Before any territory may be annexed under this section by a municipality,
the governing body shall adopt a plan of services establishing at least the services to be
delivered and the projected timing of the services. The plan of services shall be

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reasonable with respect to the scope of services to be provided and the timing of the services.

(2) The plan of services shall include, but not be limited to: police protection, fire protection, water service, electrical service, sanitary sewer service, solid waste collection, road and street construction and repair, recreational facilities and programs, street lighting, and zoning services. The plan of services may exclude services which are being provided by another public agency or private company in the territory to be annexed other than those services provided by the county.

(3) The plan of services shall include a reasonable implementation schedule for the delivery of comparable services in the territory to be annexed with respect to the services delivered to all citizens of the municipality.

(4) Before a plan of services may be adopted, the municipality shall submit the plan of services to the local planning commission, if there is one, for study and a written report, to be rendered within ninety (90) days after such submission, unless by resolution of the governing body a longer period is allowed. Before the adoption of the plan of services, a municipality shall hold a public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality not less than seven (7) days before the hearing. The notice shall include the locations of a minimum of three (3) copies of the plan of services which the municipality shall provide for public inspection during all business hours from the date of notice until the public hearing.

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(5) A municipality may not annex any other territory if the municipality is in default on any prior plan of services.

(6) After July 1, 2008, a municipality may not annex any other territory if the municipality does not deliver directly or by contract comparable services to all citizens in similar areas of the municipality. In addition, a municipality that is not in compliance with the schedule in the plan of services for an annexed territory, may not annex any other territory.

(7) If a municipality operates a school system, and if the municipality annexes territory during the school year, any student may continue to attend his or her present school until the beginning of the next succeeding school year unless the respective boards of education have provided otherwise by agreement.

SECTION 12. Tennessee Code Annotated, Section 6-51-102(a)(2), is amended by adding the following new subdivisions:

(2)(A) If an annexation ordinance is not final on the effective date of this act, and if the municipality has not prepared a plan of services, the municipality shall have sixty (60) days to prepare a plan of services.

(B) For any annexation ordinance that is not final on the effective date of this act or adopted after the effective date, the county legislative body of the county where the territory subject to annexation ordinance may file a suit in the nature of a quo warranto proceeding to contest the reasonableness of the plan of services.

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(C) If the court finds the plan of services to be unreasonable, or to have been done by exercise of powers not conferred by law, an order shall be issued vacating the same and the municipality shall be prohibited from annexing, pursuant to the authority of §6-51-102, any part of the territory proposed for annexation by such vacated ordinance for a period of at least twenty-four (24) months following the date of such order. In the absence of such finding, an order shall be issued sustaining the validity of such ordinance, which shall then become operative thirty-one (31) days after judgment is entered unless an abrogating appeal has been taken therefrom.

SECTION 13. Tennessee Code Annotated, Section 6-51-108(b), is amended by deleting the first sentence and substituting instead the following:

Upon the expiration of six (6) months from the date any annexed territory for which a plan of service has been adopted becomes a part of the annexing municipality, and every six (6) months thereafter until services have been extended according to such plan, there shall be prepared and published in a newspaper of general circulation in the municipality a report of the progress made in the preceding year toward extension of services according to such plan, and any changes proposed therein. The governing body of the municipality shall publish notice of a public hearing on such progress reports and changes, and hold such hearing thereon.

Tennessee Code Annotated, Section 6-51-108, is amended by deleting the next to the last sentence in subsection (b) and by adding the following as new subsections (c) and (d):

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(c) A municipality may amend a plan of services by resolution of the governing body only after a public hearing for which notice has been published at least seven (7) days in advance in a newspaper of general circulation in the municipality when:

(1) The amendment is reasonably necessary due to natural disaster, act of war, act of terrorism, or reasonably unforeseen circumstances beyond the control of the municipality; or

(2) The amendment does not materially or substantially decrease the type or level of services or substantially delay the provision of services specified in the original plan; or

(3) The amendment:

(i) proposes to materially and substantially decrease the type or level of services under the original plan or to substantially delay those services; and

(ii) is not justified under (c)(1); and

(iii) has received the approval in writing of a majority of the property owners by parcel in the area annexed. In determining a majority of property owners, a parcel of property with more than one owner shall be counted only once and only if owners comprising a majority of the ownership interests in the parcel petition together as the owner of the particular parcel.

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(d) An aggrieved property owner in the annexed territory may bring an action in the appropriate court of equity jurisdiction to enforce the plan of services at any time after one hundred and eighty (180) days after an annexation by ordinance takes effect and until the plan of services is fulfilled, and may bring an action to challenge the legality of an amendment to a plan of services if such action is brought within thirty (30) days after the adoption of the amendment to the plan of services. If the court finds that the municipality has amended the plan of services in an unlawful manner, then the court shall decree the amendment null and void and shall reinstate the previous plan of services. If the court finds that the municipality has materially and substantially failed to comply with its plan of services for the territory in question, then the municipality shall be given the opportunity to show cause why the plan of services was not carried out. If the court finds that the municipality's failure is due to natural disaster, act of war, act of terrorism, or reasonably unforeseen circumstances beyond the control of the municipality which materially and substantially impeded the ability of the municipality to carry out the plan of services, then the court shall alter the timetable of the plan of services so as to allow the municipality to comply with the plan of services in a reasonable time and manner. If the court finds that the municipality's failure was not due to natural disaster, act of war, act of terrorism, or reasonably unforeseen circumstances beyond the control of the municipality which materially and substantially impeded the ability of the municipality to carry out the plan of services, then the court shall issue a writ of mandamus to compel the municipality to provide the services contained in the

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plan, shall establish a timetable for the provision of the services in question, and shall enjoin the municipality from any further annexations until the services subject to the court's order have been provided to the court's satisfaction, at which time the court shall dissolve its injunction. If the court determines that the municipality has failed without cause to comply with the plan of services or has unlawfully amended its plan of services, the court shall assess the costs of the suit against the municipality.

SECTION 14. For any land that is used for agricultural purposes, a municipality may not use its zoning power to interfere in any way with the use of such land for agricultural purposes as long as the land is used for agricultural purposes.

SECTION 15. Tennessee Code Annotated, Title 6, Chapter 51, Part 1, is amended by adding the following as a new section:

Section _____. No provision of this act applies to an annexation in any county with a metropolitan form of government in which any part of the general services district is annexed into the urban services district.

SECTION 16. Tennessee Code Annotated, Section 6-51-115, is amended by designating the existing section as subsection (a), renumbering present subsections as subdivisions, and adding the following as new subsections:

(b) In addition to the preceding provisions of this section, when a municipality annexes territory in which there is retail or wholesale activity at the time the annexation takes effect or within three (3) months after the annexation date, the following apply:

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(1) Notwithstanding the provisions of Section 57–6-103 or any other law to the contrary, for wholesale activity involving the sale of beer, the county shall continue to receive annually an amount equal to the amount received by the county in the twelve (12) months immediately preceding the effective date of the annexation for beer establishments in the annexed area that produced Wholesale Beer Tax revenues during that entire twelve (12) months. For establishments that produced Wholesale Beer Tax revenues for at least one (1) month but less than the entire twelve (12) month period, the county shall continue to receive an amount annually determined by averaging the amount of Wholesale Beer Tax revenue produced during each full month the establishment was in business during that time and multiplying this average by twelve (12). For establishments which did not produce revenue before the annexation date but produced revenue within three (3) months after the annexation date, and for establishments which produced revenue for less than a full month prior to annexation, the county shall continue to receive annually an amount determined by averaging the amount of Wholesale Beer Tax revenue produced during the first three (3) months the establishment was in operation and multiplying this average by twelve (12). The provisions of this subdivision are subject to the exceptions in subsection (c). A municipality shall only pay the county the amount required by this subdivision for seven (7) years after the plan of services has

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been fully implemented in all the territory annexed by a particular annexation ordinance.

(2) Notwithstanding the provisions of Section 67-6-712 or any other law to the contrary, for retail activity subject to the Local Option Revenue Act, the county shall continue to receive annually an amount equal to the amount of revenue the county received pursuant to Section 67-6-712(a)(2)(A) in the twelve (12) months immediately preceding the effective date of the annexation for business establishments in the annexed area that produced Local Option Revenue Act revenue during that entire twelve (12) months. For business establishments that produced such revenues for more than a month but less than the full twelve (12) month period, the county shall continue to receive an amount annually determined by averaging the amount of Local Option Revenue produced by the establishment and allocated to the county under Section 67-6-712(a)(2)(A) during each full month the establishment was in business during that time and multiplying this average by twelve (12). For business establishments which did not produce revenue before the annexation date and produced revenue within three (3) months after the annexation date, and for establishments which produced revenue for less than a full month prior to annexation, the county shall continue to receive annually an amount determined by averaging the amount of Local Option Revenue produced and allocated to the county under Section 67-6-712(a)(2)(A) during the first three (3) months the

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establishment was in operation and multiplying this average by twelve (12). The provisions of this subdivision are subject to the exceptions in subsection (c). A municipality shall only pay the county the amount required by this subdivision for seven (7) years after the plan of services has been fully implemented in all the territory annexed by a particular annexation ordinance.

(c) Subsection (b) is subject to these exceptions:

(1) Subdivision (b)(1) ceases to apply as of the effective date of the repeal of the Wholesale Beer Tax, should this occur.

(2) Subdivision (b)(2) ceases to apply as of the effective date of the repeal of the Local Option Revenue Act, should this occur.

(3) Should the General Assembly reduce the amount of revenue from the Wholesale Beer Tax or the Local Option Revenue Act, accruing to municipalities by changing the distribution formula, the amount of revenue accruing to the county under subsection (b) will be reduced proportionally as of the effective date of the reduction.

(4) A county, by resolution of its legislative body, may waive its rights to receive all or part of the revenues provided by subsection (b). In these cases, the revenue shall be distributed as provided in Sections 57-6-103, and 67-6-712, of the respective tax laws unless otherwise provided by agreement between the county and municipality.

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(5) Annual revenues paid to a county by or on behalf of the annexing municipality are limited to the annual revenue amounts provided in subsection (b) and known as "annexation date revenue" as defined in subdivision (e)(2).

Annual situs-based revenues in excess of the "annexation date revenue" allocated to one (1) or more counties shall accrue to the annexing municipality. Any decrease in the revenues from the situs based taxes identified in subsection (b) shall not affect the amount remitted to the county or counties pursuant to subsection (b) except as otherwise provided in this subsection. Provided, however, a municipality may petition the department of revenue no more often than annually to adjust annexation date revenue as a result of the closure or relocation of a tax producing entity.

(d)(1) It is the responsibility of the county within which the annexed territory lies to certify and to provide to the department of revenue a list of all tax revenue producing entities within the proposed annexation area.

(2) The department of revenue shall determine the local share of revenue from each tax listed in this section generated within the annexed territory for the year before the annexation becomes effective, subject to the requirements of subsection (b). This revenue shall be known as the "annexation date revenue".

(3) The department of revenue with respect to the revenues described in subdivision (b)(2), and the municipality with respect to the revenues described in

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subdivision (b)(1), shall annually distribute an amount equal to the annexation date revenue to the county of the annexed territory.

SECTION 17. Tennessee Code Annotated, Section 6-1-201(b), is amended by adding the following language as Subdivision (1):

If any part of the unincorporated territory proposed for incorporation is within five miles of an existing municipality of one hundred thousand (100,000) or more according to the most recent federal census and if the governing body of such municipality adopts a resolution by a two thirds vote indicating that the municipality has no desire to annex the territory, such territory may be included in a proposed new municipality. A petition for incorporation shall include a certified copy of such resolution from the affected municipality.

SECTION 18. Tennessee Code Annotated, Section 6-1-202, is amended by deleting subsection (a) and substituting instead the following:

The county election commission shall hold an election for the purpose of determining whether this charter shall become effective for any municipality or newly incorporating territory upon the petition in writing of thirty-three and one-third percent (33 1/3%) of the registered voters of the municipality or territory. The petition shall include a current list of the registered voters who live within the proposed territory. The petition shall state in a sufficient manner the boundaries of the proposed municipal corporation, which may be done by a general reference to the boundaries then existing if there is one. Upon receipt of the petition the county election commission shall examine the

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petition to determine the validity of the signatures in accordance with Section 2-1-107.

The county election commission shall have a period of twenty (20) days to certify whether the petition has the sufficient number of signatures of registered voters. If the petition is sufficient to call for an election on the issue of incorporation, the county election commission shall hold an election, providing options to vote "FOR" or "AGAINST" the incorporation of the new charter, not less than forty-five (45) days nor more than sixty (60) days after the petition is certified. The date of the election shall be set in accordance with Section 2-3-204. The county election commission shall, in addition to all other notices required by law, publish one (1) notice of the election in a newspaper of general circulation within the territory of the municipality or of the proposed municipality, and post the notice in at least three (3) places in the territory.

SECTION 19. Tennessee Code Annotated, Section 6-18-104, is amended by deleting subsection (a) and substituting instead, the following:

(a) The county election commission shall hold an election for the purpose of determining whether Chapters 18-22 of this title shall become effective for any city upon the petition in writing of thirty-three and one-third percent (33 1/3%) of the registered voters of the city or territory. The petition shall include a current list of the registered voters who live within the proposed territory. The petition shall state in a sufficient manner the boundaries of the proposed municipal corporation, which may be done by a general reference to the boundaries then existing if there is one. Upon receipt of the petition the county election commission shall examine the petition to determine the

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validity of the signatures in accordance with Section 2-1-107. The county election commission shall have a period of twenty (20) days to certify whether the petition has the sufficient number of signatures of registered voters. If the petition is sufficient to call for an election on the issue of incorporation, the county election commission shall hold an election, providing options to vote "FOR" or "AGAINST" the incorporation of the new charter, not less than forty-five (45) days nor more than sixty (60) days after the petition is certified. The date of the election shall be set in accordance with Section 2-3-204. The county election commission shall, in addition to all other notices required by law, publish one (1) notice of the election in a newspaper of general circulation within the territory of the city or of the proposed city and post the notice in at least ten (10) places in the territory.

SECTION 20. Tennessee Code Annotated, Section 6-30-106, is amended by deleting subsection (a) and substituting instead, the following:

(a) The county election commission shall hold an election for the purpose of determining whether Chapters 30-36 of this title shall become effective for any city upon the petition in writing of twenty percent (20%) of the registered voters of the municipality or territory voting at the last general election. The petition shall include a current list of the registered voters who live in the proposed territory. The petition shall state the proposed corporate name and shall designate in a sufficient manner the boundaries of the proposed corporate name and shall designate in a sufficient manner the boundaries of the proposed municipal corporation, which may be done by a general reference to the

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boundaries then existing if there is one, and the boundaries of the councilmanic districts or shall have attached a map of the area to be incorporated on which the councilmanic districts are shown. Upon receipt of the petition the county election commission shall examine the petition to determine the validity of the signatures in accordance with Section 2-1-107. The county election commission shall have a period of twenty (20) days to certify whether the petition has the sufficient number of signatures of registered voters. If the petition is sufficient to call for an election on the issue of incorporation, the county election commission shall hold an election, providing options to vote "FOR" or "AGAINST" the incorporation of the new charter, not less than forty-five (45) days nor more than sixty (60) days after the petition is certified. The date of the election shall be set in accordance with Section 2-3-204. The county election commission shall, in addition to all other notices required by law, publish one (1) notice of the election in a newspaper of general circulation within the territory of the city or of the proposed city and post the notice in at least ten (10) places in the territory.

SECTION 21. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 22. This act shall take effect upon becoming a law, the public welfare requiring it.

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